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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/725,090 | 12/01/2003 | Karl-Friedrich Laible | ZTP01P14018 | 1756 |

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| EXAMINER |
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TRAN, HANH VAN

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| ART UNIT | PAPER NUMBER |
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3637

DATE MAILED: 05/10/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/725,090

Applicant(s)

LAIBLE

Examiner

Hanh V. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 December 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/01/03.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. This is the First Office Action on the Merits from the examiner in charge of this application.

Priority

2. Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Germany on 6/1/2001. It is noted, however, that applicant has not filed a certified copy of the German application as required by 35 U.S.C. 119(b).

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Claim 1, (1) line 8, "at least one of said border strip" should be "at least one of said border strips", (2) lines 9-10, since line 3 recited only one side part, the recitation on lines 9-10 of "at least one of said side parts" renders the claim indefinite, (3) line 12, the limitation "said end bar" is vague, thus indefinite for failing to clearly define which of the end bars applicant is referring to.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

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6. Claims 1-2, 4-7, 11, and 14 are rejected under 35 U.S.C. 102(b) as being anticipated by USP 4,170,391 to Bottger.

Bottger discloses a housing for a refrigerator comprising all the elements recited in the above listed claims including, such as shown in Fig 1, a body defining an interior and having at least one side part formed from a panel of flat material, such as shown in Figs 2 & 4, side walls, a front side with an opening open to the interior, vertical border strips, horizontal bars (16,28), said side part having a joining element, the end bar being introduced into the joining element and subjecting the border strip to a force having an effect of widening an angle at which the border strip is connected to the side wall, (i.e., col.3, lines 31-36, the inner leg 34 and the outer leg 32 of the U-shaped case portion are spaced from each other a distance slightly less than the distance between the inner most portion of the detent tang 58 and the outer surface of the first end 44 of the cross piece support member 28), the end bar having at least two points of contact, such as shown in Fig 3. In regard to claim 11, Bottger meets the limitations recited therein since col.3, lines 31-36, the inner leg 34 and the outer leg 32 of the U-shaped case portion are spaced from each other a distance slightly less than the distance between the inner most portion of the detent tang 58 and the outer surface of the first end 44 of the cross piece support member 28. Thus, when the end bar is inserted into the joining element, it would deflect/rotate the joining element.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and

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the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

9. Claims 3, 8-10, and 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bottger in view of USP 3,984,223 to Whistler, Jr..

Bottger discloses all the elements as discussed above except for the end bar having a joint-on buffer body forming at least one points of contact, the joining element is rigidly connected to either the border strip or the side wall, the borer strip being covered with a colored sheet material, and the side wall being free of a color coating at least in a rear region.

Whistler, Jr. teaches the idea of providing a joint-on buffer body 42 forming at a point of contact, such as shown in Fig 3, for the purpose of increase manufacturing tolerance of the dimensions of the elements. Therefore, it would have been obvious to modify the structure of Bottger by providing a joint-on buffer body forming at least one points of contact for the purpose of increase manufacturing tolerance of the dimensions of the elements, as taught by Whistler, Jr., since both teach alternate conventional refrigerator housing, used for the same intended purpose, thereby providing structure as claimed.

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In regard to the joining element is rigidly connected to either the border strip or the side wall, it would have been obvious and well within the level of one skill in the art to rigidly connected the joining element to either the border strip or the side wall in order to increase the overall load support of the housing, if so is desired. In regard to the border strip being covered with a colored sheet material, and the sidewall being free of a color coating at least in a rear region, it would have been obvious and well within the level of one skill in the art to have the border strip being covered with a colored sheet material, and the sidewall being free of a color coating at least in a rear region in order to reduce the overall cost of the refrigerator.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Anell et al, Avendano et al, Weaver et al, Jahr, Jr. Et al, Taylor, Jr., Jenkins et al, Tate, Jr. et al, Fujitsu, Matsushita, and Yamaguchi et al all show structures similar to various elements of applicant's disclosure.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh V. Tran whose telephone number is (703) 308-6302. The examiner can normally be reached on Monday-Thursday, and alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (703) 308-2486. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

HVT
May 02, 2004



Hanh V. Tran
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